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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/763,081

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EXAMINER

RAYYAN, SUSAN F

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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/763,081	<b>Applicant(s)</b> CHAKRAVARTY ET AL.	
	<b>Examiner</b> SUSAN FOSTER RAYYAN	<b>Art Unit</b> 2167	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 01 August 2008.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 22-42 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 22-42 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on 22 January 2008 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on August 1, 2008 has been entered.

**DETAILED ACTION**

2. Claims 1-21 are canceled.
3. Claims 22-42 are pending.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claims 22-42 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Application Publication Number 2005/0071239 issued to Peter James Tormey et al (“Tormey”) and US Patent 6,675,212 issued to Jon Michael Greenwood (“Greenwood”) and US 2005/0065996 issued to Harvey Lunenfeld.**

**As per claim 22 Tormey teaches:**

**sending a request for a first file from a communication program(paragraph 5, lines 7-9 and Figure 1A, Reference 20, as search using a web-based search engine and paragraph 43 lines 1-22 receiving a listing and paragraph 44, lines 1-2);**

**detecting whether an option to forward from said communication program a received first file to a mail server has been activated (paragraph 78, paragraph 83, as e-mail response );**

**said communication program encapsulating said first file in a message transmission and redirecting said message transmission to said mail server wherein said mail server is responsive to a mail request by a mail client containing a target address (paragraph 78, paragraph 83 as e-mail response).**

Tormey does not explicitly teach **in response to said activated option a data processing system waiting a user incremented period before detecting whether said first file is received and ... upon receipt of said first file by said communication program.** Greenwood teaches **in response to said activated option a data processing system waiting a user incremented period before detecting whether said first file is received and** (column 7, lines 29-45, as process checks if a download of a data file requested is identified as delayed where delayed includes no response within a reasonable time which

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is set by the user or by default at six seconds) , **and upon receipt of said first file by said communication program** (column 8, lines 20-24, as monitor download of the requested file in the background) to improve the efficiency of data browsing. It would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify Tormey **in response to said activated option a data processing system waiting a user incremented period before detecting whether said first file is received and ... upon receipt of said first file by said communication** to improve the efficiency of data browsing as described by Greenwood at (column 6, lines 51-53).

Tormey and Greenwood do not explicitly teach **in response to said first file not being received, said communication program determining whether a predetermined length of time specified in response to a timeout query has expired and in response to determining a predetermined length of time specified in response to said time out query has expired...** Lunenfeld does teach these limitations at paragraph 0487 as timeout period per search engine. It would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify Tormey and Greenwood in response to said first file not being received , said communication program determining whether a predetermined length of time specified in response to a timeout query has expired and in response to determining a predetermined length of time specified in response to said time out query has expired... be capable of searching search engines and/or other sites substantially simultaneously and on-the-fly as described by Lunenfeld at (paragraph 0005).

**As per claim 23** same as claim arguments above and Greenwood teaches:  
in response to determining said predetermined length of time specified in  
response to said timeout query has not expired, and upon receipt of said first file  
by said communication program, displaying the said first file by said  
communication program (column 2, lines 59, bridging to column 3, line 16, as  
data file requested is deliverable and at column 7, lines 29-34, as monitor for  
delay).

**As per claim 24** same as claim arguments above and Greenwood teaches:  
Responsive to said predetermined length of time expiring, detecting whether a  
user  
prefers to continue waiting for said first file (column 7, lines 16-27, as user may  
select  
and deselect monitoring of data requests).

**As per claim 25** same as claim arguments above and Tormey teaches:  
designating a first email address as said target address (paragraph 78, user  
supplies e-mail address to supplier as a reply address).

**As per claim 26** same as claim arguments above and Tormey teaches:  
designating a second email address as said target address (paragraph 78, user  
supplies e-mail address to supplier as a reply address).

**As per claim 27** same as claim arguments above and Greenwood teaches:

adjusting said predetermined length of time in response to a task priority of said communication program (column 7, lines 16-27, as user may select and deselect monitoring of data requests).

**As per claim 28** same as claim arguments above and Greenwood teaches:

temporarily and dynamically adjusting said predetermined length of time, in response to determining said communication program is deselected as a foreground task running on a data processing system (column 7, lines 16-27, as user may select and deselect monitoring of data requests and column 7, lines 42-64, as time frames are separately programmable by the user or by default).

**As per independent claim 29** Tormey teaches:

**means for sending a request for a first file from a communication program**

paragraph 5, lines 7-9 and Figure 1A, Reference 20, as search using a web-based search engine and paragraph 43 lines 1-22 receiving a listing and paragraph 44, lines 1-2);

**means for detecting whether an option to forward from said**

**communication program a received first file to a mail server has been activated (paragraph 78, paragraph 83, as e-mail response );**

**and means for encapsulating , ...said first file in a message transmission by said communication program and redirecting said message transmission to said mail server ... wherein said mail server is responsive**

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**to a mail request by a mail client containing a target address (paragraph 78, paragraph 83 as e-mail response).**

Tormey does not explicitly teach **means for waiting a user incremented period before detecting whether said first file is received, in response to said activated option and ... means for encapsulating, and upon receipt of said first file by said communication program.** Greenwood teaches ... in response to said activated option a data processing system waiting a user incremented period before detecting whether said first file is received and (column 7, lines 29-45, as process checks if a download of a data file requested is identified as delayed where delayed includes no response within a reasonable time which is set by the user or by default at six seconds) , **and upon receipt of said first file by said communication program** (column 8, lines 20-24, as monitor download of the requested file in the background) to improve the efficiency of data browsing. It would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify Tormey with **means for waiting a user incremented period before detecting whether said first file is received, in response to said activated option and ... means for encapsulating, and upon receipt of said first file by said communication program** to improve the efficiency of data browsing as described by Greenwood at (column 6, lines 51-53).



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Tormey and Greenwood do not explicitly teach **means for determining whether a predetermined length of time specified in response to a timeout query has expired, in response to said first file not being received and ... in response to determining a predetermined length of time specified in response to said time out query has expired...** Lunenfeld does teach these limitations at paragraph 0487 as timeout period per search engine. It would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify Tormey and Greenwood in response to said first file not being received , said communication program determining whether a predetermined length of time specified in response to a timeout query has expired and in response to determining a predetermined length of time specified in response to said time out query has expired... be capable of searching search engines and/or other sites substantially simultaneously and on-the-fly as described by Lunenfeld at (paragraph 0005).

**Claim 30** is rejected based on the same rationale as claim 23.

**As per claim 31** same as claim arguments above and Greenwood teaches:

means for detecting whether a user prefers to continue waiting for said first file,

responsive to said predetermined length of time expiring (column 7, lines 16-27, as user

may select and deselect monitoring of data requests).

**As per claim 32** same as claim arguments above and Tormey teaches:

means for designating a first email address as said target address (paragraph 78, user supplies e-mail address to supplier as a reply address).

**As per claim 33** same as claim arguments above and Tormey teaches:

means for designating a second email address as said target address  
(paragraph 78, user supplies e-mail address to supplier as a reply address).

**As per claim 34** same as claim arguments above and Greenwood teaches:

means for adjusting said predetermined length of time in response to a task priority of said communication program (column 7, lines 16-27, as user may select and deselect monitoring of data requests).

**As per claim 35** same as claim arguments above and Greenwood teaches:

means for temporarily and dynamically adjusting said predetermined length of time, in response to determining said communication program is deselected as a foreground task running on a data processing system (column 7, lines 16-27, as user may select and deselect monitoring of data requests and column 7, lines 42-64, as time frames are separately programmable by the user or by default).

**As per independent claim 36** Tormey teaches:

**sending a request for a first file from a communication program**(paragraph 5, lines 7-9 and Figure 1A, Reference 20, as search using a web-based search engine and paragraph 43 lines 1-22 receiving a listing and paragraph 44, lines 1-2);

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**detecting whether an option to forward from said communication program**

**a received first file to a mail server has been activated** (paragraph 78,

paragraph 83, as e-mail response );

**said communication program encapsulating said first file in a message**

**transmission and redirecting said message transmission to said mail**

**server wherein said mail server is responsive to a mail request by a mail**

**client containing a target address** (paragraph 78, paragraph 83 as e-mail

response).

Tormey does not explicitly teach **in response to said activated option a data processing system waiting a user incremented period before detecting whether said first file is received and ... upon receipt of said first file by said communication program**. Greenwood teaches **in response to said activated option a data processing system waiting a user incremented period before detecting whether said first file is received and** (column 7, lines 29-45, as process checks if a download of a data file requested is identified as delayed where delayed includes no response within a reasonable time which is set by the user or by default at six seconds) , **and upon receipt of said first file by said communication program** (column 8, lines 20-24, as monitor download of the requested file in the background) to improve the efficiency of data browsing. It would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify Tormey **in response to said activated option a data processing system waiting a user incremented**

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**period before detecting whether said first file is received and ... upon receipt of said first file by said communication** to improve the efficiency of data browsing as described by Greenwood at (column 6, lines 51-53).

Tormey and Greenwood do not explicitly teach **in response to said first file not being received, said communication program determining whether a predetermined length of time specified in response to a timeout query has expired and in response to determining a predetermined length of time specified in response to said time out query has expired...** Lunenfeld does teach these limitations at paragraph 0487 as timeout period per search engine. It would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify Tormey and Greenwood in response to said first file not being received , said communication program determining whether a predetermined length of time specified in response to a timeout query has expired and in response to determining a predetermined length of time specified in response to said time out query has expired... be capable of searching search engines and/or other sites substantially simultaneously and on-the-fly as described by Lunenfeld at (paragraph 0005).

**As per claim 37** same as claim arguments above and Greenwood teaches:  
in response to determining said predetermined length of time specified in response to said timeout query has not expired, and upon receipt of said first file by said communication program, displaying the said first file by said

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communication program (column 2, lines 59, bridging to column 3, line 16, as data file requested is deliverable and at column 7, lines 29-34, as monitor for delay).

**As per claim 38** same as claim arguments above and Greenwood teaches: responsive to said predetermined length of time expiring, detecting whether a user prefers to continue waiting for said first file (column 7, lines 16-27, as user may select and deselect monitoring of data requests).

**As per claim 39** same as claim arguments above and Tormey teaches: designating a first email address as said target address (paragraph 78, user supplies e-mail address to supplier as a reply address).

**As per claim 40** same as claim arguments above and Tormey teaches: designating a second email address as said target address (paragraph 78, user supplies e-mail address to supplier as a reply address).

**As per claim 41** same as claim arguments above and Greenwood teaches: adjusting said predetermined length of time in response to a task priority of said communication program (column 7, lines 16-27, as user may select and deselect monitoring of data requests).

**As per claim 42** same as claim arguments above and Greenwood teaches: temporarily and dynamically adjusting said predetermined length of time, in

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response to determining said communication program is deselected as a foreground task running on a data processing system (column 7, lines 16-27, as user may select and deselect monitoring of data requests and column 7, lines 42-64, as time frames are separately programmable by the user or by default).

### **Response to Arguments**

5. Applicant's arguments with respect to claims 22-42 have been considered but are moot in view of the new ground(s) of rejection.

Tormey and Greenwood do not explicitly teach in response to said first file not being received, said communication program determining whether a predetermined length of time specified in response to a timeout query has expired and in response to determining a predetermined length of time specified in response to said time out query has expired... Lunenfeld does teach these limitations at paragraph 0487 as timeout period per search engine. It would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify Tormey and Greenwood in response to said first file not being received, said communication program determining whether a predetermined length of time specified in response to a timeout query has expired and in response to determining a predetermined length of time specified in response to said time out query has expired... be capable of searching search engines and/or other sites substantially simultaneously and on-the-fly (paragraph 0005).

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In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., (after period 2 has expired) a user is then prompted to select a preconfigured email account for delivery through a presentation of a prompt) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

### ***Contact Information***

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Susan F. Rayyan whose telephone number is 571-272-1675. The examiner can normally be reached on M-F, 7:30-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Cottingham can be reached on 571-272-7079. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/John R. Cottingham/  
Supervisory Patent Examiner, Art  
Unit 2167

Susan Rayyan  
September 2, 2008